CongressDaily HEALTH MATTERS

A Shot In The Arm For Oversight

By Julie Rovner

■ When men and women get elected to Congress, most of them arrive at the Capitol thinking the only way they can affect public policy is to pass laws. Many of them leave thinking the same thing. But others come to realize they can wield just as much influence — and have just as much, if not more of an effect — using an often overlooked power: oversight.

Oversight is not to be confused with the power to investigate. While Congress can and does investigate as a matter of course, investigations usually are of subjects outside the government and often lead — or are intended to lead — to legislation. Oversight, by contrast, has the legislative branch of government examining the workings of the executive branch of government. And, when done properly, oversight can and does lead to changes without resorting to the use of the traditional legislative process.

Much has been written about how the Republican-led Congress has let its oversight responsibilities lapse, particularly in the case of how the Bush administration is conducting the war in Iraq. But at least in health care, both the House and Senate are showing signs of oversight life. And both are getting results.

In the House, the Government Reform Committee has the primary oversight responsibility. But for years, many of the highest-profile oversight activities have emanated from the Energy and Commerce Oversight and Investigations Subcommittee. **Subcommittee Chairman Jim Greenwood**, R-Pa., laughed uncomfortably when told his activities of late are reminiscent of those of probably the panel's most famous chairman, **Energy and Commerce ranking member John Dingell**, D-Mich. "You're not the first person to say that," he said, leaving it unclear if he considers the observation a compliment or an insult.

Greenwood has had, by any measure, a more than decent run as chairman. He has presided over hearings on the collapse of Enron and on Martha Stewart's stock-trading activities. But his most recent foray — an examination of potential conflicts of interest by scientists at the National Institutes of Health and, possibly, the FDA — is already bearing fruit.

It has also been emphatically bipartisan on a committee that is badly divided over most other health issues. The revelations about some of the sizable outside payments received by some scientists have angered Republicans and Democrats alike, many of whom worked together to double NIH's funding over the past decade.

Greenwood said his investigators were already well into their work when the *Los Angeles Times* ran a series last December about scientists moonlighting for drug companies. "We were looking at travel and speaking fees before the *L.A. Times* [series]," Greenwood said. "That turned us on to the outside activity thing."

That "outside activity thing" has already led to changes at NIH — specifically new rules providing significantly more disclosure of scientists' outside income. But Greenwood and his Republican and Democratic colleagues are still not satisfied. They have vowed to keep up the heat until the problem is resolved to their satisfaction. "Everybody agrees NIH is a treasure, and everyone likes Zerhouni," he said, referring to NIH Director Elias Zerhouni. "The challenge is how do you ferret out some of these bad practices.

The FDA had acknowledged problems as early as 1997 with tissues such as skin, tendons and ligaments transmitting hepatitis, HIV, and other potentially fatal maladies. Unlike blood and solid organs, tissues were not formally regulated by the agency.

But while Greenwood's investigation has grabbed most of the recent headlines, an oversight effort from the Senate also recently has borne fruit, albeit on a longer timeline.

In 2001, **Sen. Susan Collins**, R-Maine, then-chairwoman of the Senate Governmental Affairs Investigations Subcommittee, held a hearing on the FDA's lack of regulations regarding the safety of human tissue for transplants.

The agency had acknowledged problems as early as 1997 with tissues such as skin, tendons and ligaments transmitting hepatitis, HIV, and other potentially fatal maladies. Unlike blood and solid organs, tissues were not formally regulated by the agency. Two years and several tragedies later, Collins, now chairwoman of the full committee, held yet another hearing. This one featured the parents of Brian Lykins, a 23-year-old who died from a massive infection after receiving a contaminated knee implant.

The FDA finally issued the tissue transplant rules — two weeks ago. Those regulations became final May 25. Now tissue may not be transplanted until the donor has been screened and tested for an array of dangerous ailments.

Collins, however, like Greenwood and his colleagues, is still not satisfied. Still unfinished is a rule that would mandate "good tissue practices" to ensure tissue from otherwise eligible donors does not get contaminated after the fact. Collins promised she will not let up until the FDA complies.

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